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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**WACHOVIA BANK, N.A. AS TRUSTEE
(BAYVIEW), a national banking association**

Plaintiff,

v.

**JOHN CLIFTON ELSTEAD, et. al;
SANDRA F. ELSTEAD, also known as
SANDRA F. WAGNER, an individual ; TITLE
INSURANCE AND TRUST COMPANY, a
California corporation; FIDELITY NATIONAL
TITLE INSURANCE COMPANY, a California
corporation; SUSAN ELSTEAD, an individual;
LAW OFFICES OF WALKER & DURHAM,
an entity of unknown form; THE UNITED
STATES OF AMERICA; MBNA AMERICA
BANK, N.A., a national banking entity;
MEUSER COLLECTION COMPANY doing
business as MEUSER OF CALIFORNIA, a
California corporation; UNIVERSAL FENCES
& SUPPLY, INC., a California corporation;
THE CITY OF OAKLAND, a municipal entity;
DOES 1 through 100, inclusive,**

Defendants.

Case No.: 3:07-cv-6015-SI

STIPULATION FOR REMAND

STIPULATION

1. Plaintiff commenced this action on September 17, 2007, Alameda County Superior Court, Case No.nRG07346492. Plaintiff Wachovia filed this action seeking to foreclose on real property held by Defendant Elstead.

*STIPULATION AND
PROPOSED ORDER*
Case No. 03:07-cv-6015-SI

1 2. The action was removed by defendant the United States of America pursuant to
2 28 U.S.C. §§ 1442(a)(1) and 1444.

3 3. Defendant, the United States has claim against the property that plaintiff seeks to
4 foreclose that is related to IRS liens filed against defendant Elstead for unpaid federal taxes. The
5 United States' interest in property that plaintiff seeks to foreclose is the sole basis for federal
6 jurisdiction, which includes the amount and priority of the IRS liens. The parties agree that the
7 remaining issues in this case, which is limited to whether plaintiff has an right to foreclose on the
8 property, arise under California state law. The parties further agree that those issues
9 predominate over the sole federal question.

10 4. Defendant Elstead further agrees that, while no judgment has been entered in
11 favor of the IRS's tax liens, he is not contesting those tax liabilities in this proceeding.

12 5. In addition, the United States agrees that the IRS liens filed against the real
13 property at issue that are related to defendant Elstead's federal tax liabilities are subordinate to
14 Wachovia's interests in the real property it seeks to foreclose.

15 6. Based on the foregoing, the parties agree that this case should be remanded the
16 Alameda County Superior Court, and any pending motion in this Court should be denied as
17 moot.

JOSEPH P. RUSSONIELLO
United States Attorney

/s/ Thomas M. Newman
THOMAS M. NEWMAN
Assistant United States Attorney
Tax Division

DATED: March 31, 2008

By: /s/S. Christopher Yoo
S. CHRISTOPHER YOO
ROCIO HERRERA
Attorneys for plaintiff
WACHOVIA BANK, N.A. AS
TRUSTEE
(BAYVIEW)

DATED: April 2, 2008

By: /s/John C. Elstead
JOHN C. ELSTEAD

1 California, in and for the County of Alameda, and the Clerk is DIRECTED to transfer forthwith
2 the instant order, at the following address:

3 Office of the Clerk
4 Superior Court of California
5 County of Alameda
6 1225 Fallon Street
7 Oakland, CA 94612-4293

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9 **IT IS SO ORDERED.**

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SUSAN ILLSTON
UNITED STATES DISTRICT COURT JUDGE